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C O N F I D E N T I A L SECTION 01 OF 02 KUALA LUMPUR 000202

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FOR EAP/MTS

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TAGS: PGOV PREL KDEM MY

SUBJECT: KING VERSUS PRIME MINISTER IN TERENGGANU
CONSTITUTIONAL CRISIS

REF: A. KUALA LUMPUR 195 - MORE UMNO CHALLENGES
1B. KUALA LUMPUR 185 - POST-ELECTION SCENE
1C. 07 KUALA LUMPUR 1377 - RALLY AND RIOT ENSUES

Classified By: Political Section Chief Mark D. Clark
for reasons 1.4 (b, d).

Summary

11. (C) The royal household in Terengganu has gone against the choice of Prime Minister Abdullah Badawi and his United Malays National Organization (UMNO) party and appointed its own candidate to become Chief Minister of the state, a decision that threatens a constitutional crisis and pits Prime Minister Abdullah against Malaysia's King, Sultan Mizan. The King has refused to re-appoint the outgoing Chief Minister Idris Jusoh and has instead issued a letter of appointment to Ahmad Said. UMNO leaders called the royal household's selection unconstitutional as Ahmad does not command a majority of support in the state assembly. The party has threatened to expel Ahmad if he goes through with the swearing-in ceremony on March 26. Such a scenario could leave the state in limbo pending a compromise, or force the palace to dissolve the recently elected state assembly and call for new elections. The struggle in Terengganu is playing out against the backdrop of Abdullah's significantly weakened standing following the March 8 elections and the reassertion of royal prerogative in at least three other states. End Summary.

Constitutional Crisis: King versus Prime Minister

12. (SBU) A constitutional crisis is brewing in Malaysia after the Terengganu's Regency Advisory Council appointed a new chief minister in defiance of PM Abdullah's choice for the post. The appointment of Ahmad Said as Chief Minister of Terengganu on March 23 over incumbent Chief Minister Idris Jusoh has pitted the PM who supports the latter against Malaysia's King Sultan Mizan who is also the Sultan of Terengganu. Although according to Malaysian law, the Sultan cannot reign over his state during his term of appointment as the King of the country (Malaysia's kingship is rotated every five years among the nine Sultans), Sultan Mizan still has a hold on the state through his ten year old son who co-reigns the state with a three-member Regency Advisory Council headed by Mizan's brother. Responding to the appointment, PM Abdullah opined that since Idris had the support of 23 out of the 24 state assembly members (except for Said), the appointment of any other person to the post is unconstitutional and not valid. The PM justified his

position by explaining that state rulers appoint the chief ministers on the basis that the chief ministers have the support and confidence of the majority of the elected state assembly members.

The King and the State Constitution

¶13. (SBU) Attorney General Abdul Gani Patail and Minister in the PM's Department in charge of legal affairs Mohd Zaid Ibrahim publicly supported the PM's position and added that Terengganu's state constitution is very clear that the Regent and Regent Advisory Council must appoint a chief minister who is a member of the state legislative assembly who commands majority support in the assembly. Gani also explained that the Federal Constitution does not grant the sultan, as the sitting King, the right to nominate anyone for the Chief Minister's post. The AG added he will seek an audience with the King to clarify the issues relating to the appointment of the chief minister. Commenting on the controversy, Zaid explained that only in cases of a deadlock where multiple parties are involved does the ruler have the discretion to appoint the person he thinks has the support of the majority.

The Minister was referring to the Perak state where the Regent had to intervene in the appointment of the Chief Minister after the March 8 election when none of the political parties garnered an absolute majority in the state assembly. In a related case in Perlis, the ruler did not appoint the UMNO nominated incumbent Chief Minister Shahidan Kassim who failed to get the support of the majority of assembly members in the state assembly (ref B).

The Crisis in Terengganu

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¶14. (SBU) The crisis in Terengganu started immediately after the March 8 general election when the ruling National Front coalition (Barisan Nasional or BN) retained control of Terengganu by winning 24 out of the 32 state assembly seats. In normal circumstances, the incumbent Chief Minister Idris Jusoh would present the results to the state ruler with a letter of appointment from the UMNO party president (PM Abdullah) endorsing his appointment as Chief Minister. However, in Terengganu's case, the State's Regency Advisory Council refused to give an appointment to Idris Jusoh to present the results and the letter from the party president.

¶15. (SBU) Opposition sources claimed that the refusal to endorse Idris Jusoh stemmed from Sultan Mizan's unhappiness with the way Idris administered the state since he became the Chief Minister in March 2004. They claim that Idris bypassed the ruler on major decisions affecting the state, acted as if he was the sultan, and focused on "mega projects" (including building a crystal mosque) instead of poverty eradication projects in Terengganu, the second poorest state in the country after Sabah. Online news portal Malaysiakini reported that the Sultan was also unhappy with the rough manner the police and the Idris-led state government had handled the September 2007 Batu Buruk riot (ref C) and a tussle with opposition Islamic Party of Malaysia (PAS) supporters on polling day.

Options for Terengganu

¶16. (U) The Terengganu State UMNO Liaison Committee has already warned Ahmad Said that he will be sacked from the party if he swears in as Chief Minister on March 26. State UMNO Liaison Secretary Rosol Wahid pointed out that Ahmad will be going against the party constitution for failing to abide by PM Abdullah's decision to retain Idris Jusoh as the Chief Minister. Nevertheless, Ahmad still claims he has the support of the UMNO grassroots including seven out of the eight UMNO divisions within the state.

¶7. (U) Constitutional expert Professor Aziz Bari told local media that the boycott of the swearing in ceremony and the sacking of Ahmad from UMNO would have no effect on the palace decision. He added that UMNO/BN assembly members will have to wait for the first sitting of the Terengganu state assembly in order to pass a motion of no confidence against Ahmad. In such circumstance, the Regency Advisory Council would then have to name another person who enjoys the support of the majority of the elected representatives or call for a snap state election. Although there would be no state government to request for dissolution, the palace could still call for a state election based on the sultan's reserve powers. Aziz stated that this power is available in exceptional circumstances and may be evoked in order to prevent chaos in the state.

COMMENT

¶8. (C) Sultan Mizan is one of at least four hereditary Malay rulers to exercise renewed royal prerogative following the March 8 electoral set-back for Prime Minister Abdullah. The rulers of Selangor, Perak, and Perlis all played significant roles in formulating the new state executive committees and in appointing their respective states' new chief ministers. In the case of Perlis, the ruler went against the Prime Minister's decision, but acted with a firm basis in the state constitution. Unfortunately for Abdullah, the crisis in Terengganu requires him to stare down the sitting King. Mizan's biggest weapon is the ability to dissolve the newly elected state assembly and call for new elections, but such a move would not change the situation assuming UMNO repeats its earlier election result in Terengganu. For his part, Abdullah must be careful in his dealings with Mizan so as not to denigrate the institution of the King, and also keeping in mind that the King's voice could be critical if Malaysia were to enter a period of national political crisis. Not since the 1970s have the royals exerted such influence in the management of their states. Now in the 21st century, the biggest constitutional crisis Malaysia faces is deciding whether the royals are really anything more than figureheads, or whether they have an active role to play in forming the government.

SHEAR